

REMARKS

Remarks / Arguments

Reconsideration of this application as amended, and withdrawal of the rejections set forth in the Office Action dated March 17, 2009, are respectfully requested. Claims 1-53, 56-108 remain pending.

Claims 29-30, 34-48, 86-87 and 89-103 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Buxton (Pub. No.: US 2003/0204856 A1, hereinafter "*Buxton*") in view of Hurtado et al. (Pub. No. US 2006/0095792 A1, hereinafter "*Hurtado*").

Claims 1-5, 7-22, 25-28, 52-53 and 107-108 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Buxton* and in view of Harris et al. (Pub. No.: US 2004/0267812 A1, hereinafter "*Harris*") and *Hurtado*.

Claims 32-33, 49-51, 56-57, 59-85 and 104-106 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Buxton* in view of *Hurtado* and Kleinpeter III et al. (Patent No.: US 6,907,463 B1, hereinafter "*Kleinpeter*").

Claims 31 and 88 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Buxton* in view of *Hurtado* and Schleicher et al. (Pub. No.: US 2002/0138576 A1, hereinafter "*Schleicher*").

Claims 6 and 23-24 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Buxton* and further in view of *Harris*, *Hurtado* and *Kleinpeter*.

Applicants do not admit that the above references are prior art and reserve the right to challenge these references at a later date.

Cited References

Buxton discloses an apparatus and method for effecting a distributed video on demand system in a local data network. A number of local processing units within the local network are utilized. A database server in communication with local data network is further included for directing streamed delivery of the video data from certain local processing units storing video

data to other local processing units in the local network that are requesting playback of the video data. (See Abstract).

Notably, *Buxton* does not disclose delivery of media items (e.g., video) to clients as an aggregate of portions of media items provided by more than one source in a network. The streamed delivery of video data of *Buxton* teaches away from the aggregation of portions of media items as disclosed by the applicant. The applicants respectfully assert that conventional streaming video requires a continuous delivery of video data from a single source.

Hurtado discloses an apparatus and method for distributing protected digital content. Previously purchased encrypted digital content is received from a purchaser of the digital content. The purchaser of the previously purchased encrypted digital content is different from the recipient of the encrypted digital content. A secure transmission is established with an authorization authority for decrypting the content. A first decryption key for decrypting at least part of the previously purchased encrypted content as permitted by the authorization authority is received from the authorization authority. The at least part of the previously purchased encrypted content is decrypted as permitted by the authorization authority. (See Abstract). Notably, *Hurtado* does not disclose delivery of media items to clients as an aggregate of portions of media items provided by more than one source in a network.

Harris discloses a system and method for enabling integration of multiple media providers with a media player. The system and method enables multiple media providers to customize a media player to allow access, enable use, and control use of its media through the media player. (See Abstract). Notably, *Harris* does not disclose delivery of media items to clients as an aggregate of portions of media items provided by more than one source in a network.

Kleinpeter discloses a method to exchange files between users in a network environment. This method includes the steps of executing a software agent on multiple users' computing systems. These software agents establish a connection from their respective computing systems when logging into a network environment. An agent server, executed on the network environment, directs the software agents to establish direct connection between their respective computing systems in response to file requests from various users. (See Abstract). Notably,

Kleinpeter does not disclose delivery of media items to clients as an aggregate of portions of media items provided by more than one source in a network.

The Cited References Distinguished

To render a claim obvious, the Examiner must account for each element of the claim. Claim 29 includes the language:

- a plurality of clients having peer-to-peer connectivity to one another;
- a first server for processing a request from a first client for a particular media item, for determining a sub-plurality of clients that each or in the aggregate have an encrypted copy of the desired media item, for arranging transfer of the encrypted copy of the desired media item from the sub-plurality of clients to the first client;
- a second server for evaluating business rules for viewing desired media items;
- a third server for granting a media pass to the first client allowing access to the desired media item and a decryption key, and for providing the decryption key to the first client based on the return of the media pass by the first client, wherein the media pass is provided based on a satisfactory evaluation of the business rules;
- a client rendering device for decrypting the desired media item for use by an authorized user at the first client.

As discussed above, neither *Buxton* nor *Hurtado* discloses delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, *Buxton* and *Hurtado*, whether considered alone or in combination, fail to disclose "determining a sub-plurality of clients that each or in the aggregate have an encrypted copy of the desired media item, for arranging transfer of the encrypted copy of the desired media item from the sub-plurality of clients to the first client," as claimed. Therefore, *Buxton* in view of *Hurtado* does not account for each and every element of claim 29. At least for the above reason, and potentially for other reasons, claim 29 and its dependent claims 30-53 are allowable over *Buxton* in view of *Hurtado*. The applicants respectfully assert that, while the Examiner did

not rely upon *Harris* or *Kleinpeter* to reject claim 29, *Harris* and *Kleinpeter* also fail to disclose delivery as an aggregate of portions of media items.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of claim 29 and its dependent claims 30-53 under 35 U.S.C. §103(a).

Independent claim 86 includes the language:

a plurality of clients having peer-to-peer connectivity to one another;

a first server for processing a request from a first client for a particular media item, for determining a sub-plurality of clients, of the plurality of clients, that each or in the aggregate have a protected copy of the desired media item, and for arranging transfer of the protected copy of the desired media item from the sub-plurality of clients to the first client;

a second server for evaluating business rules for viewing desired media items;

a third server for granting a media pass to the first client allowing access to the desired media item and a decryption key, and for providing the decryption key to the first client based on the return of the media pass by the first client, wherein the media pass is provided based on a satisfactory evaluation of the business rules;

a client rendering device for storing a protected copy of the desired media item at the first client and rendering the desired media item to an authorized user at the first client.

As discussed above, neither *Buxton* nor *Hurtado* discloses delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, *Buxton* and *Hurtado*, whether considered alone or in combination, do not disclose a sub-plurality of clients "that each or in the aggregate have a protected copy of the desired media item, and for arranging transfer of the protected copy of the desired media item from the sub-plurality of clients to the first client," as claimed. Therefore, *Buxton* in view of *Hurtado* does not account for each and every element of claim 86. At least for the above reason, and potentially for other reasons, claim 86 and its dependent claims 87-108 are allowable over *Buxton* in view of *Hurtado*. The applicants respectfully assert that, while the Examiner did not

rely upon *Harris* or *Kleinpeter* to reject claim 86, *Harris* and *Kleinpeter* also fail to disclose delivery as an aggregate of portions of media items.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of claim 86 and its dependent claims 87-108 under 35 U.S.C. § 103(a).

Independent claim 1 includes the language:

receiving at a first server a request from a first client for a particular media item, whereby the first client is interconnected to other clients;

at the first server, determining a sub-plurality of clients, of the other clients, that each or in the aggregate have an encrypted copy of the desired media item;

at a second server, evaluating whether the first client satisfies business rules for viewing the desired media item;

at the first server, signaling to a third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys;

at the third server, providing a media pass to the first client;

at the first server, transferring the encrypted copy of the desired media item from the sub-plurality of clients to the first client;

at the first client, returning the media pass to the third server;

at the third server, once receiving the media pass from the first client, providing a decryption key to the first client for decrypting and viewing the desired media item.

As discussed above, neither *Buxton*, *Harris*, nor *Hurtado* discloses delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, the references do not disclose "determining a sub-plurality of clients, of the other clients, that each or in the aggregate have an encrypted copy of the desired media item" and "transferring the encrypted copy of the desired media item from the sub-plurality of clients to the first client," as claimed. Therefore, *Buxton* in view of *Harris* and *Hurtado* does not account for each and every element of claim 1. At least for the above reason, and potentially for other reasons, claim 1 and its dependent claims 2-28 are allowable over *Buxton* in view of *Harris*

and *Hurtado*. The applicants respectfully assert that, while the Examiner did not rely upon *Kleinpeter* to reject claim 1, *Kleinpeter* also fails to disclose delivery as an aggregate of portions of media items.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of claim 1 and its dependent claims 2-28 under 35 U.S.C. §103(a).

Independent claim 56 includes the language:

providing at a first server a catalog of media items available in encrypted format from a plurality of devices having broadband connectivity to the Internet;

receiving a priority list from a first device representing a prioritized list of media items requested by the first device from the catalog;

scheduling delivery to the first device of a particular media item on the priority list from a sub-plurality of devices of the plurality of devices that each or in the aggregate have an encrypted copy of the particular media item, wherein the encrypted copy of the particular media item is transferred from the sub-plurality of devices to the first device;

receiving from a second server an evaluation as to whether the first device satisfies business rules for viewing the desired media item;

signaling to a third server that the business rules have been satisfied, wherein the third server contains media passes and decryption keys;

providing a media pass to the first device;

returning the media pass to the third server;

providing at the third server a decryption key to the first device once the media pass is received, enabling the encrypted copy of the particular media item to be played at the first device.

As discussed above, neither *Buxton*, *Hurtado*, nor *Kleinpeter* discloses delivery of media items to clients as an aggregate of portions of media items supplied by more than one source in a network. Specifically, the cited references do not disclose "scheduling delivery to the first device of a particular media item on the priority list from a sub-plurality of devices of the

plurality of devices that each or in the aggregate have an encrypted copy of the particular media item, wherein the encrypted copy of the particular media item is transferred from the sub-plurality of devices to the first device," as claimed. Therefore, *Buxton* in view of *Hurtado* and *Kleinpeter* does not account for each and every element of claim 56. At least for the above reason, and potentially for other reasons, claim 56 and its dependent claims 57-85 are allowable over *Buxton* in view of *Hurtado* and *Kleinpeter*. The applicants respectfully assert that, while the Examiner did not rely upon *Harris* to reject claim 56, *Harris* also fails to disclose delivery as an aggregate of portions of media items.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of claim 56 and its dependent claims 57-85 under 35 U.S.C. §103(a).

Conclusion


A specific discussion of the dependent claims is considered to be unnecessary; applicant's silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

A Notice of Allowance is therefore respectfully requested. Should the Examiner find that a telephone or in-person conference would expedite the prosecution of this Application further, he is invited to contact the Applicants' counsel at the contact listed below for such a conference.

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-2207, from which the undersigned is authorized to draw.

Dated: June 17, 2009

Respectfully submitted,

By 

William F. Ahmann

Registration No.: 52,548

PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
(650) 838-4300
(650) 838-4350 (Fax)
Attorney for Applicants